UNITED NATIONS **S**

Security Council

Distr.
GENERAL

S/1999/549
12 May 1999
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 12 MAY 1999 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to transmit to you herewith a letter dated 11 May 1999 from Mr. Mohammed Said Al-Sahaf, Minister for Foreign Affairs of Iraq. The letter reviews the setbacks that have accompanied the implementation of all five phases under the memorandum of understanding of 20 May 1996 between Iraq and the United Nations, which confirm the failure of the programme at a time when the humanitarian situation in Iraq is worsening, and the Minister calls upon you to announce that the programme has not and cannot mitigate the suffering of the people of Iraq and that the only logical way to do this is to lift the embargo on Iraq without any further conditions.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Saeed H. HASAN
Ambassador
Permanent Representative

Annex

Letter dated 11 May 1999 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General

More than two years after the memorandum of understanding of 20 May 1996 between Iraq and the United Nations began to be implemented, the Government of Iraq has been assiduous in abiding by its provisions, regarding it as a temporary and exceptional measure inasmuch as it has cooperated fully with the United Nations agencies in examining and discussing the requirements of the sectors covered by the procurement and distribution plans within the five phases of the memorandum for the purpose of importing items within the time period stipulated for each phase in order to meet the urgent humanitarian needs of the people of Iraq. Through a review of the four previous phases and the first part of phase V, it is clear that the memorandum of understanding is not meeting the requirements required to meet these needs for the reasons that are set forth hereunder.

1. Factors limiting capacities for the production and exportation of crude oil

On 15 April 1998 the group of experts from Saybolt Nederland B.V. and the United Nations Secretariat submitted its report to the Security Council (S/1998/330, annex). It indicated that in current circumstances Iraq would be unable to export oil and petroleum products in sufficient quantities to realize the total sum established for phase IV under resolution 1154 (1998) because of the limited productive capacity of the oil sector and the sharp fall there had been in oil prices in world markets. After the adoption of Security Council resolution 1175 (1998), under which 300 million dollars was allocated to the purchase of the spare parts and equipment necessary to maintain and expand production and exportation capacities for oil and petroleum products to the maximum extent possible in current circumstances, the oil sector concluded 534 contracts for the purchase of spare parts and other items of equipment, 489 of which it had submitted to the secretariat of the Security Council Committee established by resolution 661 (1990) as of 15 March 1999. The United States and the United Kingdom representatives in the Committee placed most of the contracts submitted to it on hold at various times, and the present situation is that 92 contracts are on hold despite the fact that the Iraqi authorities concerned have responded immediately to all of the questions raised by the Committee.

The suspension of the contracts in question has no legal or technical basis but stems from political considerations that are hostile to the people of Iraq and are at cross purposes with the letter and spirit of the memorandum of understanding. The unavailability of the spare parts required by the oil sector is also reducing its capacity to produce and export, and this in turn reduces the sums necessary to finance the needs of the other sectors within the procurement and distribution plan and consequently makes it impossible to discharge the obligations required to mitigate the human suffering of the Iraqi people.

2. The mechanism for the processing of contracts

The procedures for the processing of the contracts submitted to the Committee through its secretariat by the various sectors included in the procurement and distribution plan take a long time, particularly those procedures relating to the approval of contracts. It is to be noted, indeed, that there is deliberate delay on the part of some members of the Committee in the process of approving contracts for humanitarian equipment to sectors relevant to infrastructure, such as contracts for the electricity and water and sanitation sectors as well as for the oil sector. The following can be mentioned by way of example:

(a) For a number of contracts, the interval between registration and approval increased to more than three months in phase IV. Examples are the contracts with the following assigned numbers: in the food sector, 4001, 4002 and 4249; in the medication sector, 4306, 4554 and 4659; in the electricity sector, 4438, 4660 and 4816; in the agricultural sector, 4428, 4437 and 4442; in the water and sanitation sector, 4424, 4601 and 4645; and in the education sector, 4314, 4448 and 4466.

(b) The interval between the approval of contracts and the opening of the relevant letters of credit was from one month to two months. By way of example: a contract for infant formula (4249); a contract for generator parts as food-related equipment (4002); in the medication sector, a contract for X-ray equipment (4659); a contract for medical supplies (4306), where it took more than three months after approval to open the letter of credit; in the electricity sector (4438); in the agricultural sector (4428, 4437 and 4444); in the water and sewage sector (4424, 4601 and 4645). This has meant that the materials have not arrived at the times specified for each phase. The interval has been even longer when manufactured goods are involved, as they require some time to be prepared once the letter of credit has been opened. As a result, the arrival of the materials is delayed for a period that varies between eight months and one year, or sometimes more. This is entirely due to the mechanism that has been adopted for dealing with memorandum of understanding contracts.

(c) The Security Council Committee established by resolution 661 (1990) approves certain contracts involving materials that are complementary to other materials, and either puts on hold or blocks contracts approved under the purchase and distribution plan. As a result, it is not possible to use certain materials which have been delivered, because their use is dependent upon other materials, contracts for which have not been approved. Thus, materials are stockpiled in warehouses, awaiting the arrival of their complements. As an example of this, contract No. 34/96/844 was made with the Rankus company under phase I of the memorandum of understanding for laboratory solutions to be used by the health sector. The solutions began to arrive, but the equipment needed for their use did not: the contract for this equipment, 85/96/443/HS, dated 31 December 1997, was put on hold, then transferred, first to phase II, then to phase III. The letter of credit was opened two years later, on 17 June 1998. Two years after the contract was submitted, on 4 August 1998, 100 of the 550 items ordered in the contract were delivered. Many oral and written reports had been submitted by the inspectors to the effect that the material was in the warehouse, but could not be used because the aforementioned equipment was not

available. The health sector was therefore unable to make use of the solutions before their expiry dates.

Sixty-six phase IV electricity-sector contracts with a total value in excess of $120 million, and 14 water and sewage sector contracts worth $32 million are still awaiting approval from the Committee. Phase IV ended more than five months ago. The materials to be purchased through these contracts are needed to complement the materials involved in contracts that have been approved.

(d) The Security Council Committee established by resolution 661 (1990) subjected contracts approved under phase IV and subsequently transferred to phase V to fresh approval procedures. The customs expert, Mr. Jeremy Owen, demanded that some of those contracts should be resubmitted for approval, despite the fact that they had already been approved under phase IV.

(e) The various sectors of the purchase and distribution plan highlighted and clearly identified many weak points and shortcomings in the processing of contracts. One or more parties is able to exert complete control over the work of the Security Council Committee established by resolution 661 (1990). It is therefore one or other of these parties that, to suit its political purposes, determines the progress made by contracts, shamelessly disregarding the memorandum of understanding, the aim of which is to supply the Iraqi people with food, medicine and humanitarian supplies. Some contracts have been cancelled for purely political reasons, regardless of the fact that the lists of every kind of material to be contracted for were submitted as part of the relevant plans, and approved by the Secretary-General of the United Nations. They were exhaustively discussed with the Iraqi side by United Nations agencies before being submitted to you. For example, for political reasons, the representatives of the United States and the United Kingdom at the Security Council Committee established by resolution 661 (1990) blocked, on the flimsiest of pretexts, a number of contracts for purchases from Jordan and the Sudan. After an interval, the Committee approved contracts for the same materials from a different source country. Such measures mean that materials do not reach the consumer when requested. Furthermore, in the course of these delays, the prices of commodities fluctuate with the market. This does not fit in with the traditional concept of the commercial money market or purchasing flexibility, and constitutes a senseless waste of Iraqi funds, for reasons linked to the mechanism used by the Security Council Committee established by resolution 661 (1990) for processing memorandum of understanding contracts. This mechanism has led to the processing of contracts under all phases of the memorandum being delayed for periods ranging between eight months and more than one year, as we have made clear above.

3. <u>The putting on hold of contracts</u>

With regard to the putting on hold of memorandum of understanding contracts, the Security Council Committee established by resolution 661 (1990) has been in the habit of putting large numbers of contracts on hold, in response to the unwarranted objections of the representatives of the United Kingdom and the United States. The following are examples of such objections:

- The materials in the contract are dual-purpose;

- Additional information on the materials is necessary;

- Information on the final user and place of use of materials is necessary; and

- The materials in the contract are in no way related to increasing the output of petroleum or developing oil-production equipment.

At the last count, the United States representative had used such reasons as those given above to put on hold 22 phase IV contracts for the electricity sector with a value of $97,493,433 and needed in order to upgrade the electrical grid. The representative gave the pretext of concern as to dual use, in addition to another strange reason, which is completely baffling, namely, that the materials in the contracts could be used to manufacture chemical, biological or nuclear weapons and missiles. Despite all the efforts made by Iraq to conclude the contracts and submit them to the Committee, and to respond to enquiries in order to get the contracts approved, many contracts from phases III, IV and V are still on hold.

4. The opening of letters of credit and funding of contracts:

(a) Despite the fact that Iraq has prioritized funding for the sectors included in the memorandum of understanding in order to facilitate the opening of the necessary letters of credit, the Security Council Committee established by resolution 661 (1990) has not kept to this agreement, regardless of our continual insistence on this matter, and has funded a large number of phase IV and V contracts on a selective basis.

(b) It is a lengthy process to open letters of credit. After the Central Bank of Iraq has submitted the request to open the letter of credit, the credit is submitted yet again to the Security Council Committee established by resolution 661 (1990) for its approval - despite the fact that the contract has already been approved. Then it is the turn of the Banque nationale de Paris, which involves the Central Bank of Iraq in a series of unjustified and time-consuming enquiries and controls that takes one or two months. Furthermore, there is a deliberate delay in giving the recipient bank notification, which has a negative effect on the shipping of the commodities and delays their arrival in Iraq. Recently, the Treasurer admitted that there had been a delay in issuing a letter of credit for electricity contract No. 4058, which she blamed on an administrative error.

The delays in opening letters of credit for contracts signed with suppliers entail additional costs that must be borne by Iraq. The delay also means that a number of suppliers fail to honour the undertakings that they made in the contracts concluded with them. This, in turn, has repercussions for the stability of food distribution and the ability to meet the needs of important sectors in accordance with the purchase and distribution plan agreed by the United Nations.

5. The proportion of contracts processed compared with the appropriations made to finance them:

The schedule attached shows the proportion of contracts processed as compared with the appropriations made to finance them. This proportion is clearly very low, because of the problems and negative aspects referred to above, which have made a direct contribution to the delayed arrival in Iraq of the commodities concerned. As a result, the memorandum of understanding has not met the urgent requirements of the Iraqi people. The obstacles mentioned above have meant that materials have not flowed smoothly into Iraq, and that it has been difficult to obtain them. Furthermore, Iraq's money has been squandered as a result of the complicated nature of the bureaucratic mechanism involved in implementing the memorandum of understanding. In contrast, the methods used in commercial financial deals are flexible and deliver the goods swiftly.

The negative aspects that have accompanied the implementation of the memorandum of understanding throughout the five phases, of which we have provided examples above, are not only cause for concern, but raise many serious questions as to the extent to which this memorandum has succeeded in reducing the suffering of the Iraqi people.

I support the observations that you put forward in your report of 28 April 1999 (document S/1999/481), in particular, when you request the Security Council to keep in mind mainly the human dimension of what is happening in Iraq and point out that it is essential to depoliticize the programme and to ensure that its distinct identity from other activities undertaken under the sanctions regime is maintained. That having been said, I should like to point out that some members of the Council, in particular the United States of America, the United Kingdom and the Netherlands, persist in their hostile and malicious attitude with regard to Iraq and its people and are trying by all means to prevent the achievement of the objectives referred to in your report. Furthermore, I share your view when you say that the very substantial degradation of the infrastructure and the magnitude of the funds required for its rehabilitation are far beyond the funding level under the programme. You indicated quite rightly that Iraq needed additional resources and that, even if the target set for phase V, namely $5.2 billion was reached, that would not suffice in order to eliminate the suffering of the Iraqi people because of the deterioration of the humanitarian situation in Iraq. For that reason, we should like to point out to you and all the members of the Security Council that the only solution is to lift the iniquitous embargo imposed on our country.

Informing you of these facts, the Government of the Republic of Iraq requests you to assume your responsibilities and clearly indicate that the programme will not make it possible to alleviate the great suffering which the

Iraqi people have been enduring for almost nine years, that the only solution is to lift the embargo without imposing any further conditions and that this question involves a legal and moral obligation on the part of the United Nations with regard to Iraq.

(Signed) Mohammed Said AL-SAHAF
Minister for Foreign Affairs
of the Republic of Iraq

Attachment I

Contracts approved under phase IV, deferred to phase V and resubmitted for approval under phase V

(1) Ministry of Agriculture

Contract number (Phase IV)	Contract number (Phase V)	Item	Amount in United States dollars
4048	50077	Tractors	5 744 250
4049	50078	-	6 141 000
4125	50079	Spreaders	498 090
4486	50084	Seed drills	713 500
4619	50088	Pesticides	921 015
4742	50094	Supplies	478 145
			14 496 000

Ministry of Higher Education

Contract number (Phase IV)	Contract number (Phase V)	Item	Amount in United States dollars
4503	50191	Engineering equipment	400 000

	14 496 000
	400 000
Overall total	14 896 000

Attachment II

Value, as at 1 April 1999, of the items that arrived in Iraq during the four phases

Sector	Phase I		Phase II		Phase III		Phase IV		Total	
	Value of the items that arrived in Iraq (in United States dollars)	%	Value of the items that arrived in Iraq (in United States dollars)	%	Value of the items that arrived in Iraq (in United States dollars)	%	Value of the items that arrived in Iraq (in United States dollars)	%		%
Trade	931 472 464	105	913 689 639	101	779 553 534	86	598 535 261	47	3 223 250 898	81
Health	176 695 328	84	184 714 931	88	139 128 503	69	20 724 050	12	521 262 812	56
Industry	31 751 299	88	29 648 856	82	24 116 229	66	7 177 969	2	92 694 353	23
Agriculture	22 241 484	99	20 838 432	97	21 288 120	78	58 741 263	72	123 109 299	60
Irrigation	n/a	-	n/a	-	n/a	-	0	-	-	-
Interior	15 595 682	100	15 395 501	99	12 650 444	81	0	-	43 646 627	28
Municipality of Baghdad	8 404 986	100	3 565 560	78	5 410 371	72	2 054 154	20	19 435 071	21
Higher education	n/a	-	2 871 048	97	2 719 800	100	1 230 055	17	6 820 903	33
Education	11 400 000	95	7 800 000	93	8 172 414	98	0	-	27 372 414	42
Transport	n/a	-	n/a	-	n/a	-	0	-	-	-
Oil	n/a	-	n/a	-	n/a	-	0	-	-	-
Total	1 197 561 243	98	1 178 523 967	97	993 044 415	82	688 462 752	34	4 058 592 377	72

Comment: The Ministry of Industry calculates the percentages on the basis of the amounts indicated in the contracts approved, whereas, in the note from the Ministry, the percentage is calculated on the basis of the amounts actually allocated.

Attachment III

Status of the unapproved contracts under phase V

	Registered contracts		Approved contracts		Awarded contracts		Suspended contracts		Cancelled contracts		Unregistered contracts	
Sector	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Trade	45	96 183 247	14	3 300 000	31	92 883 247	-	-	-	-	-	-
Health	23	19 395 784	13	6 956 983	9	12 248 091	1	190 710	-	-	28	21 741 505
Industry	36	8 793 121	1	666 700	34	7 809 355	-	-	1	3 170 066	74	71 542 551
Agriculture	55	57 335 662	1	502 811	54	56 832 851	-	-	-	-	35	21 651 135
Interior	4	15 353 584	-	-	4	15 383 584	-	-	-	-	-	-
Higher education	9	23 417 728	-	-	9	23 417 728	-	-	-	-	-	-
Education	10	3 595 799	-	-	10	3 595 799	-	-	-	-	19	12 440 614
Municipality of Baghdad	30	41 597 350	-	-	30	41 597 350	-	-	-	-	9	4 672 788
Irrigation	20	44 002 083	-	-	19	42 302 083	-	-	1	1 007 000	10	19 802 102
Oil	-	-	-	-	-	-	-	-	-	-	111	84 611 809
Total	232	309 674 358	29	11 462 494	200	296 040 088	1	190 710	2	20 017 066	286	236 462 504